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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,347	10/24/2003	Ethan Joseph Bernstein	60001.0278US01/MS# 304257	2716
7590 08/31/2006			EXAMINER	
Leonard J. Hope Merchant & Gould P.C. P.O. Box 2903 Minneapolis, MN 55402-0903			RIES, LAURIE ANNE	
			ART UNIT	PAPER NUMBER
			2176	

DATE MAILED: 08/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.		Applicant(s)	
	10/693,347		BERNSTEIN ET AL.	
	Examiner		Art Unit	
	Laurie Ries		2176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/4/06</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This action is responsive to communications: Amendment, filed 9 June 2006, to the original application, filed 24 October 2003.
2. The rejection of claims 1-10 under 35 U.S.C. 103(a) as being unpatentable over Kunitake (U.S. Publication 2001/0018697 A1) has been withdrawn as necessitated by amendment and newly found prior art.
3. Claims 1-11 are pending. Claim 11 is a newly added claim. Claims 1 and 11 are independent claims.

### ***Information Disclosure Statement***

4. Applicant filed a document designated as an Information Disclosure Statement on 4 May 2006. The document filed is not in the form of an Information Disclosure Statement and does not provide sufficient information for the Office to review and consider the information provided. The document presents factual evidence relating to the patentability of the invention without proper affidavit support. Accordingly, the document is acknowledged as having been received but has not been considered by the Office.

***Claim Rejections - 35 USC § 103***

5. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kunitake (U.S. Publication 2001/0018697 A1) in view of Harold ("Well-Formed HTML").

**As per claims 1, 9, 10, and 11,** Kunitake discloses a method, apparatus and computer readable medium for merging source documents into a destination document, where the source document or the destination document or both contain one or more markup language tags having a start tag or an end tag or both a start tag and an end tag (See Kunitake, Page 1, paragraph 0003, Page 17, paragraphs 0465-0471, and Page 21, paragraphs 0604-0612) including comparing the source document and the destination document to identify one or more matching document parts, equivalent to blocks, and one or more difference blocks (See Kunitake, Page 3, paragraph 0055, and Page 4, paragraph 0063), splitting all matching blocks that contain a markup language tag for which only a start tag or an end tag has been matched so that the matched markup language tags are no longer matched, splitting all matching blocks that contain a markup language tag for which either the start tag or the end tag has been matched to a different tag in the other document so that the matched markup language tags are no longer matched, and splitting any matching blocks containing markup language tags that would create overlapping tags when merged (See Kunitake, Page 9, paragraphs 0223-0227, Page 4, paragraphs 0060-0065, and Page 21, paragraphs 0588-0590).

Kunitake also discloses merging the matching and difference blocks (See Kunitake, Page 5, paragraph 0069).

Kunitake does not disclose expressly that the merged document markup language tags are well-formed, which includes merging the blocks such that no overlapping tags are present in the merged document.

Harold discloses creating well-formed HTML by following the rules for HTML, namely including start tags with matching end tags, end tags with matching start tags, and excluding overlapping elements (See Harold, Page 1, "Rules for HTML").

Kunitake and Harold are analogous art because they are from the same field of endeavor of processing structured documents.

At the time of the invention it would have been obvious to one of ordinary skill in the art to include the well-formed HTML of Harold with the document merging system and method of Kunitake. The motivation for doing so would have been to create HTML that is easier to read, more robust, and less likely to break when changes are made to the HTML (See Harold, Page 1, first paragraph).

Therefore, it would have been obvious to combine Harold with Kunitake for the benefit of creating HTML that is easier to read, more robust, and less likely to break when changes are made to the HTML, to obtain the invention as specified in claims 1, 9, 10, and 11.

**As per claim 2**, Kunitake and Harold disclose the limitations of claim 1 as described above. Kunitake also discloses determining whether a markup language tag from the source document has a start tag but not an end tag in the difference block, and

in response to determining that the difference block contains a start tag but not an end tag, locating the furthest difference block containing the matching end tag of such a tag in the source document, identifying an inner range of matching and difference blocks as each of the blocks between the current block and the furthest difference block, identifying an outer range of matching and difference blocks as the current difference block and the furthest difference block and each of the matching and difference blocks in-between, identifying each markup language tag that has a start tag within the inner range and an end tag outside the outer range and, for each identified markup language tag, discarding all matching blocks within the inner range prior to the start tag, and identifying each markup language tag that has a end tag within the inner range and a start tag outside the outer range and, for each identified markup language tag, discarding all matching blocks within the inner range prior to the end tag (See Kunitake, Pages 8-9, paragraphs 0142-0242, and Page 21, paragraphs 0591-0598).

**As per claim 3**, Kunitake and Harold disclose the limitations of claim 2 as described above. Kunitake also discloses processing each matching block and difference block in order, for each matching block, copying the text from the source or destination document in the matching block into the merged document, and for each difference block, copying the text from the source or destination document in the difference block into the merged document if the difference block contains text only from either the source or destination document (See Kunitake, Pages 14-15, paragraphs 0356-0360).

**As per claim 4**, Kunitake and Harold disclose the limitations of claim 3 as described above. Kunitake also discloses creating a label for each markup language tag that has only either a start tag or an end tag in the difference block, the label including a non-zero integer identifying the number of blocks to the difference block containing the matching start or end tag (See Kunitake, Page 8, paragraphs 0130-0142, Page 10, paragraphs 0244-0246, and Page 12, paragraphs 0301-0305).

**As per claim 5**, Kunitake and Harold disclose the limitations of claim 4 as described above. Kunitake also discloses that text is copied from each sub-block into the merged document in the arranged order (See Kunitake, Page 14, paragraphs 0354-0356, and Page 15, paragraph 0359).

**As per claim 6**, Kunitake and Harold disclose the limitations of claim 5 as described above. Kunitake also discloses that text in the sub-block from the source document is copied just prior to text from the sub-block from the destination document if the sub-block has a negative label (See Kunitake, Page 22, paragraphs 0649-0654).

**As per claim 7**, Kunitake and Harold disclose the limitations of claim 6 as described above. Kunitake also discloses that text in the sub-block from the source document is copied just after text in the sub-block from the destination document if the sub-block has a positive label (See Kunitake, Page 22, paragraphs 0649-0657).

**As per claim 8**, Kunitake and Harold disclose the limitations of claim 7 as described above. Kunitake also discloses that comparing the source document and the destination document to identify one or more matching blocks and one or more difference blocks includes matching a markup language tag in the source document to a

markup language tag in the destination document only if each aspect of the markup language tag in the source document is identical to each aspect of the markup language tag in the destination document (See Kunitake, Page 10, paragraph 0247).

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

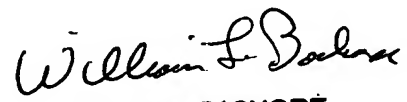


shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurie Ries whose telephone number is (571) 272-4095. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon, can be reached at (571) 272-4136.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LR

  
**WILLIAM BASHORE**  
**PRIMARY EXAMINER**